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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/641,715	08/21/2000	Laszlo Hullam	Ideal 425	7913

7590 09/14/2004

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EXAMINER

DEXTER, CLARK F

ART UNIT

PAPER NUMBER

3724

DATE MAILED: 09/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/641,715	<b>Applicant(s)</b> HULLAM, LASZLO <span style="float: right;">an</span>	
	<b>Examiner</b> Clark F. Dexter	<b>Art Unit</b> 3724	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 03 May 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 2-5, 7 and 8 is/are pending in the application.
- 4a) Of the above claim(s) 4, 5 and 7 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2, 3 and 8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. The amendment filed on May 3, 2004 has been entered.

#### ***Claim Rejections - 35 USC § 112***

2. Claim 8 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 8, lines 9-12, the recitation "such that the blunt surface of each one of the first and second cutting members extends beyond the width of the other of the first and second cutting member when the cutting edges of the first and second cutting members form an angle in relation to one another which is no larger than 90°" is vague and indefinite as to what is being set forth.

#### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 2 and 8, as understood, is rejected under 35 U.S.C. 102(b) as being anticipated by Wertepny, pn 3,453,651.

Wertepny discloses a cutting tool with every structural limitation of the claimed invention as best understood from the claim including a cutting edge that includes a sharp surface (e.g., 15a, 16a) and a blunt surface (e.g., 14a).

5. Claims 2, 3 and 8, as understood, are rejected under 35 U.S.C. 102(b) as being anticipated by Gunson, pn 4,048,721.

Gunson discloses a cutting tool with every structural limitation of the claimed invention as best understood from the claims including a first cutting member (e.g., the upper member shown in Figure 1) pivotally attached to a second cutting member (e.g., the lower member shown in Figure 1), the first and second cutting members each having an inner face which faces toward the other cutting member and an outer face which faces away from the other cutting member, and wherein each cutting member includes a cutting edge with a blunt surface (e.g., the flat portion of each handle which is located on the cutting edge side of each pivot hole; i.e., following the surface of the handle on the blade edge side and moving toward the blade edge, the portion at a position just before the handle edge ends and the blade edge begins) located radially inwardly of a serrated sharp surface (e.g., 16).

### ***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wertepny, pn 3,453,651.

Wertepny discloses a cutting tool with almost every structural limitation of the claimed invention but lacks the sharp surfaces being serrated. However, the Examiner takes Official notice that serrated edges are old and well known in the art and provide various known benefits including improved or different cutting characteristics. Therefore, it would have been obvious to one having ordinary skill in the art to provide serrated edges on the cutting tool of Wertepny for the well known benefits including those described above.

#### ***Response to Arguments***

8. Applicant's arguments filed November 25, 2002 have been fully considered but they are not persuasive.

Regarding the prior art rejection over Gunson, it is respectfully submitted that it is not clear how the present claim structurally distinguishes the claimed invention over the Gunson. For example, in the arguments on pages 2 and 3, applicant appears to be arguing that the blunt edges of Gunson are not used for cutting. However, it is respectfully submitted that applicant is arguing that the claimed invention is distinguished over the prior art by an intended use thereof. However, as applicant is well aware, an intended use cannot be relied upon to distinguish as apparatus/device over the prior art.

Additionally, in the last paragraph on page 4, applicant argues that the blunt edges in Gunson are too far apart and will not perform a cutting action. It is respectfully submitted that applicant's argument is not understood, particularly since the blunt edges of applicant's invention are not used for cutting either. Rather, they are used for cutting. Further, there does not appear to be any limitations in the claims that define the relationship between the blunt edges.

### ***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clark F. Dexter whose telephone number is (703)308-1404. The examiner can be reached Monday through Friday during normal business hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan N. Shoap can be reached on (703)308-1082. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3724

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



**Clark F. Dexter**  
**Primary Examiner**  
**Art Unit 3724**

cfd  
September 13, 2004